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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/051,342

01/18/2002

Kenneth A. Parulski

84002F-P

8690

7590

07/28/2006

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EXAMINER

BOSWELL, CHRISTOPHER J

ART UNIT

PAPER NUMBER

3676

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/051,342	<b>Applicant(s)</b> PARULSKI ET AL.	
	<b>Examiner</b> Christopher Boswell	<b>Art Unit</b> 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/18/02 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                         |                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                             | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.                                                |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8-14 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 5,319,542 to King, Jr. et al.

King, Jr. et al. disclose a method for ordering merchandise over a communication network among a plurality of merchandise providers (suppliers 100) from a plurality of order terminals, each of the order terminals being associated with one of a plurality of business entities (the customer 102) and having a pre-established business relationship with at least one of the plurality of merchandise providers, comprising maintaining information with respect to business relationships between the merchandise providers and the plurality of business entities (column 2, line 25-42), and providing an offering at one of the plurality of order terminals based on the pre-established business relationships associated with one or more of the order terminals (column 4, lines 15-25), as in claim 1.

King, Jr. et al. also disclose the offering provides a subset of merchandise providers from a plurality of merchandise providers (column 3, lines 41-51), as in claim 2, wherein the subset comprises two or more merchandise providers, as in claim 3, as well as the offering being displayed in a presentation format that is also based on the business relationship (column 3, lines 41-51), as in claim 4.

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King, Jr. et al. further disclose the order terminal is a appliance capable of accessing the Internet (column 2, lines 43-45), as in claim 5, as well as the business relationships include friendly, neutral, and hostile relationships (column 2, lines 25-42), as in claim 8, and the business relationships are maintained in a directory by a service manager (column 4, lines 25-33), as in claim 9.

King, Jr. et al. additionally disclose a system for facilitating ordering of merchandise over a communications network by a user among a plurality of merchandise providers (suppliers 100) from a plurality of order terminals, each of the order terminals being associated with one of a plurality of business entities (customers 102) and having a pre-established business relationship with at least one of the plurality of merchandise providers, comprising a control system (column 2, lines 25-42) for maintaining information with respect to business relationships between the merchandise providers and the plurality of business entities, the control system having a communication device (column 4, lines 15-25) for communicating with the plurality of order terminals over the communications network, the order terminal being used by the user to display an offering based on the business relationships associated with the order terminal, as in claim 10.

King, Jr. et al. also disclose the offering provides a subset of merchandise providers from a plurality of merchandise providers (column 3, lines 41-51), as in claim 11, wherein the subset comprises two or more merchandise providers, as in claim 12, as well as the offering being displayed in a presentation format that is also based on the business relationship (column 3, lines 41-51), as in claim 13.

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King, Jr. et al. further disclose the order terminal is a appliance capable of accessing the Internet (column 2, lines 43-45), as in claim 14, where the business relationships includes friendly, neutral, and hostile relationships (column 2, lines 25-42), as in claim 17, and the business relationships are maintained in a directory by a service manager (column 4, lines 25-33), as in claim 18, as well as a computer storage program for implementing the method (column 4, lines 3-15) where the program has to be stored in a computer or server on the Internet, as in claim 19.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-7 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over King, Jr. et al., as applied above.

King, Jr. et al. discloses the invention substantially as claimed, wherein the terminals are located on a third party network (column 4, lines 3-5). However, King, Jr. et al. does not disclose the location of the terminals in relation to the customer. Perkowski teaches of a computer used to access a virtual sales agent (column 17, lines 36-39), in which can be placed in a retail store (column 18, lines 7-12) in the analogous art of Internet commerce and web based shopping outlets for the purpose of accessing public locations where consumer-products are being sold. It would have been obvious to one with ordinary skill in the art at the time the

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invention was made to incorporate the method and system of King, Jr. et al. into a kiosk type display device, as taught by Perkowski in order to place the "virtual outlet" at third party locations where related consumer product are to be sold.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to web based virtual sales agents and merchandise providers:

U.S. Patent Number 6,873,967 to Kalagnanam et al., U.S. Patent Number 6,618,753 to Holland et al., U.S. Patent Number 6,611,814 to Lee et al., U.S. Patent Number 6,609,106 to Robertson, U.S. Patent Number 6,246,997 to Cybul et al., U.S. Patent Number 5,898,594 to Leason et al., U.S. Patent Number 5,734,719 to Tsevdos et al., U.S. Patent Number 5,576,951 to Lockwood.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (571) 272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher Boswell  
Examiner  
Art Unit 3676

CJB   
July 25, 2006